

REMARKS

Claims 1-5 are pending in the present application. Claim 2 has been amended.

Reexamination of the application and reconsideration of the rejections are respectfully requested in view of the above amendments and the following remarks, which follow the order set forth in the Office Action.

A. 35 U.S.C. § 112

Claim 2 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite based on the language “predicting a retention time of the compound of interest from the preparative scale HPLC column”.

The cited language has been amended to “predicting a retention time of the compound of interest on the preparative scale HPLC column,” as allowed in the parent case. Applicants assert that the amended claim is definite and respectfully request that the 35 U.S.C. § 112, second paragraph, rejection be withdrawn.

B. 35 U.S.C. § 103

Claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 01/90739 or U.S. Patent Application Publication No. 2002/0023878 in view of U.S. Patent No. 6,413,431. Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 01/90739 or U.S. Patent Application Publication No. 2002/0023878 in view of U.S. Patent No. 6,413,431 and further in view of U.S. Patent No. 6,344,172.

As asserted in the attached Declaration, the subject matter of U.S. Patent No. 6,413,431 and the invention claimed in the current application (i.e., U.S. Application No. 10/790,436) were, at the time the claimed invention was made, owned by or subject to an obligation of assignment to Scynexis Chemistry & Automation, Inc., whose name was later changed to Scynexis, Inc. Therefore, under 35 U.S.C. § 103 (c), U.S. Patent No. 6,413,431 is disqualified as prior art under 35 U.S.C. § 103 via 35 U.S.C. § 102 (e).

Because each of the 35 U.S.C. § 103 rejections relies on U.S. Patent No. 6,413,431 and because this patent has been disqualified as prior art under 35 U.S.C. § 103 via 35 U.S.C. § 102 (e), it is respectfully requested that the 35 U.S.C. § 103 rejections be withdrawn.

Conclusion

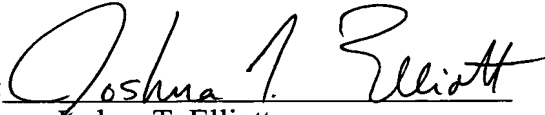
For the foregoing reasons, claims 1-5 are considered allowable. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

HUTCHISON & MASON PLLC

Date: September 9, 2005

By:



Joshua T. Elliott

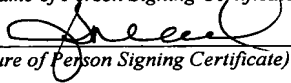
Registration No. 43,603

P.O. Box 31686
Raleigh, NC 27612
+1.919.829.9600

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 9, 2005

Jennie Snead

(Typed Name of Person Signing Certificate)



(Signature of Person Signing Certificate)

Date of Signing: September 9, 2005